

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALAN T. SMITH,

Defendant.

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Case No. 08-03146-05-CR-S-GAF

ORDER FOR DISPOSITION OF PROPERTY

Upon the filing of a Waiver of Indictment (Doc. 137) by the defendant, Alan T. Smith (Smith), on August 6, 2009, the United States filed a single-count Information against Smith. (Doc. 138.) The Information charged that Smith conspired and agreed with others to distribute 50 grams or more of methamphetamine, in violation of 21 U.S.C. §§ 846 and 841(a)(1).

The Information also contained a Forfeiture Allegation which alleged that as a result of committing the controlled substance offense in violation of 21 U.S.C. § 841(a)(1), as alleged in the Information, Smith shall forfeit to the United States, pursuant to 21 U.S.C. § 853, any and all property constituting or derived from any proceeds obtained directly or indirectly as a result of the said violation and any and all property used or intended to be used in any manner or part to commit or to facilitate the commission of the violation alleged in the Information, including but not limited to, a 2007 Chevrolet Corvette, VIN: 1G1YY36U675119684.

On August 6, 2009, Smith entered into a Plea Agreement with the United States wherein he agreed to plead guilty to the charge contained in the Information and agreed to forfeit to the United States the property described above and in the Forfeiture Allegation of the Information. (Doc 139.) The United States filed a motion for preliminary order of forfeiture and sent notice

of the filing to Attorney Stuart Huffman on behalf of Rusty Crayton, who had contacted the United States after filing a claim with the Drug Enforcement Administration.

According to the United States, Mr. Crayton and Mr. Smith provided information to indicate that they were innocent owners of the vehicle, and asked that it be returned to them. To establish innocent ownership, the burden is on the claimant to show lack of actual knowledge and that they were not wilfully blind. *United States v. 2001 Honda Accord EX*, 245 F. Supp.2d 602, 611 (M.D. Pa. 2003). The United States Attorney's Office and the Drug Enforcement Administration agree that claimants made a colorable claim of innocent ownership. The Court accepts this position and agrees that it is in the interests of justice to return the vehicle to them in an expedient manner.

Accordingly, For good cause shown, it is hereby

ORDERED that cease the publication ordered in the preliminary order of forfeiture; it is ORDERED that the United States return the vehicle to Mr. Crayton and David Smith, within a reasonable date of this Order, with each party to bear its own costs.

s/ Gary A. Fenner
Gary A. Fenner, Judge
United States District Court

DATED: August 25, 2009